

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MAY 14 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 20-10242

Plaintiff-Appellee,

D.C. No.  
1:12-cr-01256-DKW-1

v.

JACOB LYMAN,

MEMORANDUM\*

Defendant-Appellant.

Appeal from the United States District Court  
for the District of Hawaii  
Derrick Kahala Watson, District Judge, Presiding

Submitted May 12, 2021\*\*  
San Francisco, California

Before: NGUYEN, OWENS, and FRIEDLAND, Circuit Judges.

Jacob Lyman appeals from the district court's order denying his motion to reduce his sentence under 18 U.S.C. § 3582(c)(1)(A)(i). The district court held that Lyman had not shown "extraordinary and compelling" reasons warranting his release or a reduction in his sentence. 18 U.S.C. § 3582(c)(1)(A)(i). In doing so,

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

the district court relied on the U.S. Sentencing Commission's policy statement in U.S. Sentencing Guidelines Manual ("U.S.S.G.") § 1B1.13.

After the district court's decision, we held that "the current version of U.S.S.G. § 1B1.13 is not an 'applicable policy statement[ ]' for 18 U.S.C. § 3582(c)(1)(A) motions filed by a defendant." *United States v. Aruda*, 993 F.3d 797, 802 (9th Cir. 2021) (per curiam). "The Sentencing Commission's statements in U.S.S.G. § 1B1.13 may inform a district court's discretion for § 3582(c)(1)(A) motions filed by a defendant, but they are not binding." *Id.*

In light of our intervening decision in *Aruda*, we vacate and remand so that the district court can reassess Lyman's § 3582(c)(1)(A)(i) motion under the standard set forth there. We offer no views as to the merits of Lyman's § 3582(c)(1)(A)(i) motion.

Lyman's motion to expedite is denied as moot.

**VACATED AND REMANDED.**